

**HADLEY CONSERVATION COMMISSION
MEETING MINUTES**

November 12, 2013

Approved at the 12/10/13 meeting

PRESENT: Paul Alexanderson, Chair; Paulette Kuzdeba, Vice-Chair; Edwin Matuzsko; Jim Habana Hafner; Associate Member Matthew Burak and Janice Stone, Conservation Staff.

1. 7:10 PM Notice of Intent #170-222, continued. Filed by BlueWave Capital for installation of a .99-megawatt solar energy generating facility in an agricultural field *off Breckenridge Road*. Bruce Griffin from New England Environmental present as consultant to applicant. Mike Marsch from BlueWave also present, and Steven Konieczny for the property owner. Mr. Griffin explained to the Commission that they are keeping the same plan, but there will be no work within the BVW wetland or 35' buffer zone. Some panels shown on the plan will not be installed if they would be impacted by the shade, so the number of panels will probably be decreased. The owner did not want to expand the footprint, and this is the plan approved by the Planning Board. There will be cutting, no herbicide treatments etc in the 35' buffer or wetland. Commission wanted this clearly in writing. Mr. Griffin stated he would send an amended O&M plan that will include this. Paulette made a motion to close the hearing and issue the Order of Conditions for the project as shown and amended to include no work in the wetland or 35' buffer zone as proposed tonight, with the condition that the O&M be revised as stated and submitted to the Commission. Edwin seconded the motion. All voted in favor.

2. 7:50 PM Notice of Intent #170-224. Filed by BlueWave Capital for installation of a .99-megawatt solar energy generating facility in an open field *behind 26 Huntington Road*. Bruce Griffin from New England Environmental present as consultant to applicant. Mike Marsch from BlueWave also present. Tom Kusek present as property owner. Mr. Griffin submitted a revised plan to the Commission. Mr. Marsch explained that he solar array will stay outside the 35' buffer of the isolated wetland and BVW in the western part of the property. The staging area was moved up the hill a little, to get it further from the wetland on the eastern boundary. The new plan does show the gravel maintenance road next to the eastern BVW wetland. Mr. Griffin agreed with the Commission that after the corn was harvested it was clear there was no existing farm road, so the project proposes to construct one there. It would be a gravel road of minimum width next to the wetland flags. The will remove the loam and distribute it elsewhere on the site, then put geotextile and bank run gravel down for the road, keeping it at grade. This would not be removed after installation of the solar array. The long-term owner needs to know they have access to the site rain or shine, and the Fire Dept too. Edwin mentioned that this is the only solar array so far next to an active farm field. Mr. Marsch stated that is why they put the road next to the wetland, to save as much of the cornfield as possible. Commissioners discussed what would happen to the wetland after the loam was excavated and the gravel put in the road next to the wetland. Wouldn't it start draining the wetland by providing a path of less resistance? How will the applicant keep from impacting the wetland by this work? Mr. Griffin offered to put a clay berm through the road to slow down any drainage off the wetland. Mr. Griffin stated that they would be using silt fence around the work area. Can the silt fence be buried 6" and then the soil next to it excavated 10-12" without making the silt fence unstable? The Commission discussed with the applicant and consultant about the electrical line, which will be buried between one and

several feet in the new road. Edwin mentioned that private homeowners have to bury conduits at least 24", so they may need to do the same. Commissioners expressed concern about the new road so close to the wetland, and likely impact immediately and over time from the road next to the wetland edge. The owner is already voluntarily losing farmland behind the cornfield, where the solar array is proposed. The Commission discussed concern about creating a precedent for allowing commercial work such as this road within the 35' buffer. They asked about the road maintenance, including trimming of branches from many trees and shrubs to allow trucks to pass on the road near the wetland edge. Mr. Marsch stated the maintenance would be limited to repairing ruts and snow plowing. Paulette stated that she wanted the 35' buffer for the wetland, but could agree to a 25' buffer for the distance near the wetland (similar to a policy of 25' for new agriculture). Other commissioners deemed that a reasonable compromise. A neighbor asked about what would happen if the excavation for the 2' deep conduit and one foot of gravel was in the springtime during high water or rains.

Mr. Griffin produced another plan to submit to the Commission, which showed the maintenance road with a 25-ft buffer away from the wetland on the eastern side. He stated the Commission should use plan SL-3A for the road with the 25' bumpout, and plan SL-4 for the access road and erosion control notes but not the road location. The road will be wider near Huntington Rd and only 15' wide through the cornfield. Commission asked about the maintenance plan for the road. Mr. Griffin will revise and submit to the Commission. They agreed that downed trees and branches in the access road can be removed, but not those in the wetland. There will be a gate at the upper end of the access road, where the fence will encircle the solar array. They will probably do the work in the Spring. Commissioners stated they should plan the work near the wetland not during a heavy rain or rainy week. A neighbor asked about a visual barrier. They are proposing a line of arbor vitae, according to the Planning Board plan.

Paulette made the motion to close the hearing and issue the Order of Conditions with a 25' bumpout (buffer zone) of the road at the wetland, based on the revised plan SL-3A with construction notes on plan SL-4, contingent upon submittal of a revised maintenance plan for the gravel road, trees,, snowplowing (not into the wetland), and road construction not to take place during a rainy week. Jim seconded. Jim, Paulette and Paul voted in favor. Edwin voted no (in favor or protecting more farmland than buffer). Motion passes.

3. 8:10 PM Request for Determination of Applicability, filed by J. Waskiewicz (Rao's Coffee Roasting Co), for approval of wetland boundaries at *303 Russell Street (Kicza Lumber)*. Heather Comee from Pioneer Environmental present as consultant to the applicant. Ms. Comee showed the commissioners on the plan the wetlands she identified in the field. They included BVWs (Bordering Vegetated Wetlands), IVW (Isolated Vegetated Wetland), perennial stream with Bank, Land Under Water and Riverfront Area. There is some narrow BVW along the stream. The ditch wetland area identified on the Rail Trail plans has been added to the south side of the property on the plan. The plan shown at the meeting showed the Riverfront Area in blue and 35' buffer zone in orange. There was no buffer zone around the large isolated wetland in the middle. There are a number of buildings on the site, and gravel roads. There is no NHESP habitat or floodplain on the property. Ms. Comee stated that there is no work proposed at this time, just confirmation of wetland boundaries under the Wetlands Protection Act and Bylaw. She stated that she looked but could find no flow between the large isolated wetland in the middle and the BVW wetland below it. Ms. Comee stated that she had reviewed the bylaw and also their attorney, Peter MacConnell, and they do not interpret the bylaw to include protection of isolated

wetlands. The bylaw regulations states that vernal pools are important, but does not state jurisdiction over them, according to Ms. Comee and Attorney MacConnell. Commission discussed this interpretation with the consultants. Ms. Comee stated that she would be checking to see if the central isolated wetlands might be protected under the Federal Clean Water Act. Commissioners questioned her about the missing connection between the isolated and bordering vegetated wetlands, which of similar linear shape and direction, and are separated by a narrow gravel drive. Has she tried a metal detector to find a buried pipe? Applicant agreed to allow Ms. Comee to go back and check with a metal detector. Attorney MacConnell was asked to provide a statement in writing for the Commission about his opinion that the bylaw does not give the Commission jurisdiction over isolated wetlands. He agreed. He stated that they have made a good faith effort to investigate a connection between the central isolated and bordering wetlands. Mr. Kicza stated that his family made the ditch through the property in order to drain surface water from the site. They started the sawmill operation around 1947 or 1948. Ms. Comee stated she had looked at photos from the 1960s and saw no change. Paulette made the motion to continue the meeting until the December 10th meeting date, to allow time for further investigation of the connection between the two central wetlands and submission of a letter from Attorney MacConnell. Edwin seconded, and all voted in favor.

4. 8:30 PM Request for Determination of Applicability, filed by C. Inicky to install a replacement septic system in the buffer zone at *13 Hockanum Road*. Alan Weiss of Cold Spring Environmental was present to represent the applicant. He explained there was a perennial stream on the property that comes across Rt 47 and down a deep gully. The plan shows a 50' offset from the edge of the wetland/stream. The old system discharged close to the edge of the bank of the steep slope. They would like to do the project soon. The Board of Health has approved the plan. Paulette made a motion to approve the project with a negative determination #2. Edwin seconded, all voted in favor.

5. 8:40 PM Notice of Intent #170-225. Filed by William Podolak for construction of a garage addition to an existing house and additional driveway at *46 Rocky Hill Road*. Chuck Dauchy was present to represent the applicant. He explained that Mr. Podolak needed more garage space. Portions of the property are within Riverfront Area, but the new addition and additional paved driveway will still be less than 10% of the total Riverfront Area on the property. Since the house already existed on the property, Mr. Dauchy stated this project could be considered redevelopment. Commission did not necessarily agree, since the lawn area that would be paved and built on was not really degraded. Mr. Dauchy noted that the plan calls for 6 high-bush blueberry bushes to be planted in the meadow (not wetland) within the 100-ft Riverfront Area, beyond the lawn. Paulette made the motion to close the hearing and issue the Order of Conditions for the construction of the garage and additional paved driveway at 46 Rocky Hill Rd, as shown on the revised plan dated 11/12/13. Jim seconded, and all voted in favor.

6. 8:50 PM Other Business. *Vote on Right of First Refusal from Chapter 61A for T. Kusek, 26 Huntington Rd*. This is the property that the Commission just approved a solar array on earlier in the meeting. Edwin made a motion, seconded by Jim, to not exercise this Right of First Refusal. All voted in favor. *Request for Certificate of Compliance for #170-216, Hampton Inn Convention Center, 237 Russell St*. Janice informed the Commission that the applicant has told her they will need more time to get the written documentation that the compensatory storage

requirement was fully met. Continue to next meeting. *MACC Fall Conference on Invasive Species* control and management in Worcester November 16. Janice and Matthew are going. T. Mieczkowski had asked to be on the agenda to discuss his continuing concerns with property off *Lawrence Plain Rd*, but was not present at the meeting. Item passed over. Update on projects in town. Discussion about what was taking the gas pipeline across/under the CT River so long. They are still working at it night and day, weekends but not pulling the pipe yet. *Five Star Transportation* site on *Rocky Hill Rd*. Commissioners mentioned that there seems to be a lot of cars parked along the edge of the driveway every day. Was this included in the approved plan? Janice should contact their consultant David Haines to see if he has been monitoring the site. The certification of the wetland restoration has not been done yet. Janice should ask the owner to come to a Conservation meeting to explain about things being done not under the plan. Janice will go by and take another look. Janice asked the Commissioners about revising the *wetlands bylaw* at next Annual Town Meeting to include protection of isolated wetlands. Commissioners recommend keeping it short and sweet. New complaints about activities at *105 Honey Pot Road*. Neighbor has sent some video and photos supposedly showing the owner moving soil from the river and gravel and stone from the road into his yard. Not easy to tell for sure what is going on. Janice should send letter telling him all work needs to go through Conservation and DEP first. Will DEP come in for enforcement? Complaint about dumping of trash and tires off *Shattuck Rd*, across from Gooseberry Lane. Janice should check with Board of Health. Commissioners should check out site.

7. 9:20 PM ADJOURNMENT. Edwin made the motion to adjourn. Paulette seconded, all voted in favor (except Jim who had to leave around 9 PM).

Respectfully submitted by

Janice Stone

Materials used in review and deliberation of agenda items will be found in corresponding project folder in Conservation Commission office.